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State v. Matney Respondent's Brief Dckt. 44400

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IN THE SUPREME COURT OF THE STATE OF IDAHO

| | | |
|---------------------------|---|---------------------------|
| STATE OF IDAHO, |) | |
| |) | NOS. 44400 & 44401 |
| Plaintiff-Respondent, |) | |
| |) | Canyon County Case Nos. |
| v. |) | CR-2011-9492 & 2014-16325 |
| |) | |
| TRENT CHRISTOPHER MATNEY, |) | |
| |) | RESPONDENT'S BRIEF |
| Defendant-Appellant. |) | |
| _____ |) | |

Issue

Has Matney failed to establish that the district court abused its discretion by revoking his probation and executing his concurrent, unified sentences of six years, with three years fixed, imposed following his guilty pleas to injury to a child and possession of methamphetamine?

Matney Has Failed To Establish That The District Court Abused Its Sentencing Discretion

In case 44400, Matney pled guilty to injury to a child and the district court imposed a unified sentence of six years, with three years fixed, suspended the sentence, and placed Matney on supervised probation for seven years. (R., pp.77-80.)

Approximately 14 months later, in January 2013, Matney was ordered to serve discretionary jail time for having unauthorized sexual contact, submitting false monthly reports to his probation officer, and providing false information to his sex therapist, all “for a period of one (1) year,” according to Matney. (R., p.83.) In July 2014, Matney was again ordered to serve discretionary jail time for failing to take a polygraph, possessing pornography, possessing weapons at his residence, and committing a new crime (possession/consumption of methamphetamine). (R., p.84.) The state moved to revoke Matney’s probation based on these, and other, allegations. (R., pp.85-100.) Matney admitted some of the allegations, and the district court revoked his probation, executed the underlying sentence, and retained jurisdiction. (R., pp.106-08, 113-15.)

In case 44401, Matney pled guilty to possession of methamphetamine and the district court imposed a unified sentence of six years, with three years fixed, retained jurisdiction, and ordered the sentence to run concurrently with Matney’s sentence in case 44400. (R., pp.222-24.) After a period of retained jurisdiction Matney was again placed on probation, in both cases, in June 2015. (R., pp.123-26, 235-38.)

In March 2016, the state moved to revoke Matney’s probation in both cases based on allegations that he failed to maintain employment; failed to abide by his agreements of supervision; failed to pay court ordered fines, fees and costs; failed to pay supervision fees; was discharged from sex offender treatment for lack of attendance, participation and progress; and failed to take a polygraph. (R., pp.127-49, 239-61.) The state later supplemented its motion with an allegation that Matney had violated his probation by twice traveling outside his district without first having obtained permission to do so. (R., pp.158-82, 271-95.) Following an evidentiary hearing, the

district court found Matney had violated numerous conditions of his probation. (R., pp.298-301.) The court revoked Matney's probation and executed the underlying sentences in both cases. (R., pp.184-85, 302-05.) Matney filed a notice of appeal timely from the orders revoking his probation in both cases. (R., pp.306-09.)

Matney asserts that the district court abused its discretion by revoking his probation in light of his family support, employability, mental health issues, and a recommendation by his probation officer for a second period of retained jurisdiction. (Appellant's brief, pp.5-7.) Matney has failed to establish an abuse of discretion.

"Probation is a matter left to the sound discretion of the court." I.C. § 19-2601(4). The decision to revoke probation lies within the sound discretion of the district court. State v. Roy, 113 Idaho 388, 392, 744 P.2d, 116, 120 (Ct. App. 1987); State v. Drennen, 122 Idaho 1019, 842 P.2d 698 (Ct. App. 1992). When deciding whether to revoke probation, the district court must consider "whether the probation [was] achieving the goal of rehabilitation and [was] consistent with the protection of society." Drennen, 122 Idaho at 1022, 842 P.2d at 701.

Matney is not an appropriate candidate for probation. Matney had been on probation for approximately 14 months when he was ordered to serve discretionary jail time for having unauthorized sexual contact, submitting false monthly reports to his probation officer, and providing false information to his sex offender therapist. (R., p.83.) By his own admission, the alleged violations were not isolated occurrences but, instead, had occurred over the course of the entire first year of Matney's probation. (R., p.83.) After serving the 90-day discretionary jail time, Matney was arrested just over a year later for possession of methamphetamine along with probation violations that

included failing to take a polygraph, possession of pornography, and possession of weapons in his residence. (R. p.84.) In the report of probation violation Matney's probation officer reported that Matney was residing in two separate locations (with his mother and father), that it was not discovered until Matney's arrest that he was residing at a location with numerous firearms and alcohol, and that Matney's parents had "proven not to be beneficial to the defendant's compliance with sex offender supervision." (R., pp.87-89.) The report also noted that Matney had been subjected to numerous previous intermediate sanctions, including discretionary jail time, house arrest, GPS monitoring, and increased reporting to his probation officer, but that these sanctions had not been effective. (R., p.89.) Although Matney subsequently completed a period of retained jurisdiction, his performance in the rider program was not without issues. The program manager recommended that the court consider placing Matney on probation but cautioned that Matney had "not shown a significant difference in behavior that would indicate a decreased chance of repeating the same mistakes," that his support structure would have to be managed more directly and specifically if he were again allowed on probation, and that he needed to address arrogance and depression issues to be successful in the community. (PSI, p.128.) Less than a year after being placed back on probation following the period of retained jurisdiction, Matney again violated his probation by not maintaining employment, not paying fines and fees, failing to complete sex offender treatment, and failing to take a polygraph. (R., pp.129-33.)

At the disposition hearing for Matney's probation violations, the district court noted Matney was in great need of treatment, and that treatment while on probation had not been successful. (7/27/16 Tr., p.8, L.11 – p.11, L.3.) Probation was clearly not

serving the purpose of rehabilitation in this case, as evinced by Matney's failure to make any progress in treatment. Neither was probation achieving the goal of community protection, given Matney's continued criminal conduct and refusal to comply with the terms of community supervision.

The district court considered all of the relevant information and concluded, "At this point, Mr. Matney, in the best interests of the public and, I think, for to get the sex offender treatment, I am going to revoke probation..." (7/27/16 Tr., p.10, Ls.22-24.) Matney's continued criminal behavior, his refusal to comply with the conditions of community supervision, and his failure to make any rehabilitative progress while in the community did not merit continued probation. Given any reasonable view of the facts, Matney has failed to establish that the district court abused its discretion by revoking his probation.

Conclusion

The state respectfully requests this Court to affirm the district court's orders revoking probation.

DATED this 14th day of March, 2017.

/s/ Lori A. Fleming
LORI A. FLEMING
Deputy Attorney General

ALICIA HYMAS
Paralegal

CERTIFICATE OF SERVICE

I HEREBY CERTIFY that I have this 14th day of March, 2017, served a true and correct copy of the attached RESPONDENT'S BRIEF by emailing an electronic copy to:

SALLY J. COOLEY
DEPUTY STATE APPELLATE PUBLIC DEFENDER

at the following email address: briefs@sapd.state.id.us.

/s/ Lori A. Fleming
LORI A. FLEMING
Deputy Attorney General